

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Criminal Action No.
)	12-00063-01-09-CR-W-GAF
)	
TIMOTHY KIRLIN)	
and)	
MATTHEW DAVIS,)	
)	
Defendants.)	

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on March 12, 2014. Defendant Timothy Kirlin appeared in person pro se and with stand-by counsel Assistant Federal Public Defender Laine Cardarella. Defendant Matthew Davis appeared in person and with retained counsel John Osgood. The United States of America appeared by Assistant United States Attorney Charles Ambrose.

I. BACKGROUND

On October 16, 2013, a third superseding indictment was returned charging defendants with conspiracy to distribute heroin, in violation of 21 U.S.C. § 846. The indictment also charges defendant Kirlin with one count of possessing an explosive device after having been convicted of a felony, in violation of 18 U.S.C. §§ 842(i)(1) and 844(a)(1), and seven counts of possession with intent to distribute and distribution of heroin, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C).

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Ambrose announced that he will be the trial counsel for the government. Patrick Edwards will assist. The case agent to be seated at counsel table is Detective James Svoboda, Kansas City, Missouri, Police Department. William Bolt, paralegal, will assist.

Mr. Kirlin announced that he will proceed pro se. Laine Cardarella will be present as stand-by counsel.

Mr. Osgood announced that he, Patrick Peters and Shelly Peters will be the trial counsel for defendant Matthew Davis.

III. OUTSTANDING MOTIONS

There are currently pending for ruling by the district judge the following motions:

1. Motion in limine, filed by Timothy Kirlin on November 13, 2012 (document number 213)
2. Motion in limine, filed by Timothy Kirlin on February 13, 2013 (document number 238)
3. Motion in limine, filed by the government on March 4, 2014 (document number 396).

IV. TRIAL WITNESSES

Mr. Ambrose announced that the government intends to call 65 witnesses without stipulations during the trial.

Mr. Kirlin announced that he intends to call 1 witness during the trial. The defendant will not testify.

Mr. Osgood announced that defendant Matthew Davis intends to call 5 witnesses during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. Ambrose announced that the government will offer approximately 120 exhibits in evidence during the trial.

Mr. Kirlin announced that he will offer no exhibits in evidence during the trial.

Mr. Osgood announced that defendant Matthew Davis intends to offer 10 to 15 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Kirlin announced that he will rely on the defense of Constitutional certification.

Mr. Osgood announced that defendant Matthew Davis will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Kirlin stated this case is definitely for trial.

Mr. Osgood stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are not likely.

IX. TRIAL TIME

The parties were in agreement that this case will take 2 to 3 weeks to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by March 12, 2014;

That each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, March 19, 2014;

That each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, March 19, 2014. The parties are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

No additional motions in limine are anticipated. Mr. Osgood may attempt to call the co-defendant, Mr. Kirlin. Mr. Osgood will file a motion in limine dealing with this issue.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on March 24, 2014.

Stand-by counsel requests the first week of the trial docket due to the anticipated length of the trial and a scheduling conflict the second week of April.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
March 12, 2014